

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of the Petition of the
Arbitration between Telesat Canada,

Our File No.: 238186

Petitioner,

Civil Action File No.:

and

PETITION

Planetsky Ltd.,

Respondent.

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1. Petitioner is a corporation incorporated under the laws of Canada, with its principal place of business at 1601 Telesat Court, Ottawa, Ontario K1BSP4 Canada (hereinafter Telesat).

2. Respondent Planetsky Ltd., a corporation organized and existing under the laws of Cyprus and having a place of business at Gala Court Chambers, P. O. Box 52080, Y-4060 Limassol Cyprus (hereinafter "Planetsky").

3. This proceeding arises under the convention on the Recognition and Enforcement of foreign Arbitral Awards of June 10, 1958, and under Chapter 2 of Title 9, United States Code, and particularly Section 206 thereof. The jurisdiction of this Court arises under Section 203 of Title 9, United States Code.

4. On August 27, 2008, and by amendment dated October 27, 2008, petitioner and respondent entered into a written contract for satellite communication services. The contracts were signed by both parties. Correct copies of the contracts are annexed hereto as Exh. "1".

5. The written contract between petitioner and respondent contains in section 40 an arbitration agreement which, inter alia, provides that disputes under this agreement shall be adjudicated under the Rules of Conciliation and Arbitration of the United Nations Commission of International Trade Law (UNCITRAL). The arbitration proceeding would take place in New York City, New York which is within this Court's district.

6. The contract evidences a transaction in commerce since it provides for the sale of satellite communication services.

7. The following unresolved controversy has arisen under the contract, to wit, unpaid invoices for a total of \$540,035.86. This is based on services rendered from in or about June, 2009 to February 2010 plus an early termination charge less a deposit.

8. The matter in controversy comes within the arbitration agreement of the contract and on October 4, 2011, petitioner's counsel made a written demand for arbitration (letter annexed as Exh. "2") and requested that the matter be adjudicated by the American Arbitration Association ("AAA").

9. Respondent failed to respond to this demand and, no steps have been taken by respondent to proceed to arbitration.

10. By letter dated November 9, 2011, petitioner's counsel requested the AAA to adjudicate the matter (Exh. "3" hereto).

11. By letter dated November 15, 2011, AAA requested both parties to consent to the AAA adjudicating the matter by signing and returning a copy of said letter (Exh. "4" hereto). This was required since the AAA was not specifically identified in the arbitration clause.

12. Petitioner's counsel signed and returned said request (see Exh. "4" with fax confirmation).

13. Upon information and belief, respondent failed to return said consent.

14. The AAA advised petitioner's counsel on or about January 10th and 12th, 2012 that since respondent had failed to consent to the AAA adjudicating this controversy it was required to close the file.

15. Accordingly, an order of this Court is required to compel arbitration.

WHEREFORE, petitioner moved for an order directing respondent to proceed to arbitration at New York City, New York and also directing respondent to appoint the AAA as arbitrator, all in accordance with the terms of the contract, and for such other and further relief as may be proper.

Dated: Brooklyn, New York
May 2, 2012

Yours, etc.

MEYERS, SAXON & COLE
Attorneys for Petitioner
3620 Quentin Road
Brooklyn, NY 11234
(718) 339-3330

BY: 

/s/ GERALD SLOTNIK
(GS-8924)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of the Arbitration
Between Telesat Canada,

Our File No.: 238186

Petitioner,

Civil Action File No.:

-against-

AFFIDAVIT

Planetsky Ltd.,

Respondent.

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CANADA)
 : ss.:
PROVINCE OF)

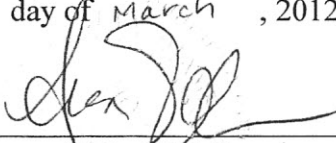
RICHARD O'REILLY, being duly sworn, deposes and says:

1. I am Petitioner's ^{Deputy General ~~now~~} Counsel and, I am familiar with the facts of this case.
2. I am submitting this affidavit in support of petitioner's application for an order pursuant to 9 USCA § 206 compelling arbitration between petitioner and respondent.
3. I have read the annexed petition and state that the events set forth accurately describe the controversy between petitioner and respondent.
4. Exhibit "1" is a correct copy of the August 27, 2008 contract and October 27, 2008 amendment thereto.
5. Petitioner and respondent agreed, inter alia to arbitrate any disputes arising under those agreements.
6. Petitioner is claiming \$540,035.86 is owed under this agreement.
7. Petitioner requires an order from this Court compelling arbitration between the parties so the dispute can be resolved.

WHEREFORE, petitioner moves for an order directing respondent to proceed to arbitration in New York City, New York and also directing respondent to appoint the AAA as arbitrator, all in accordance with the terms of the contract, and for such other and further relief as may be proper.


/s/ RICHARD O'REILLY

Sworn to before me this
16 day of March, 2012



Notary Public Lisa Diane Nickerson

Planetsky112

Each 4/2

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T120808883

AGREEMENT BETWEEN

PLANETSKY LTD.

AND

TELESAT CANADA

CONCERNING TELESAT SPACE SEGMENT SERVICE

This Agreement is made this 27th day of August, 2008 by and between:

PlanetSky Ltd., a corporation organized and existing under the laws of Cyprus and having a place of business at Gala Court Chambers, P.O. Box 52080, CY-4060 Limassol Cyprus ("CUSTOMER", which expression shall include its successors and permitted assigns), and

Telesat Canada, a corporation organized and existing under the laws of Canada, and having a place of business at 1601 Telesat Court, Ottawa, Ontario K1B 5P4 Canada (hereinafter referred to as "TELESAT", which expression shall include its successors and permitted assigns).

WITNESSETH:

WHEREAS, TELESAT has satellite capacity available on the Telstar 12 satellite for the purpose of providing service to customers on such satellite; and

WHEREAS, CUSTOMER desires to obtain Ku-Band space segment capacity service on the Telstar 12 satellite;

NOW, THEREFORE, CUSTOMER and TELESAT, in consideration of the mutual covenants expressed herein, agree as follows:

1. TELESAT SERVICES

1.1 TELESAT offers and CUSTOMER hereby orders satellite space segment service as indicated in Section 2 below ("RATES AND TERM OF SERVICE") on a full-time basis via the Telstar 12 satellite (the "Serving Satellite"), along with Telemetry, Tracking and Control ("TT&C"), and maintenance of the satellite used to provide the space segment capacity (collectively, the "Service" or "Services").

1.2 The Service is furnished to CUSTOMER subject to this Agreement, including terms and conditions set forth in the General Terms and Conditions, Exhibit A

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Customer Initials: 

TELESAT Initials: 

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("Performance Parameters"), and Exhibit B ("Satellite Access Procedures") attached hereto and incorporated herein by reference.

2. RATES AND TERM OF SERVICE

CUSTOMER shall pay a monthly rate for the Service as set forth in the following table:

Quantity	Service	Satellite	Term	Monthly Rate Per Space Segment
1 (one)	2.9 MHz Non-Preemptible Extended Ku	Telstar 12	09/01/08 – 08/31/10 EAST - EAST	\$10,150.00

3. SECURITY PAYMENT

The Service offered hereunder is contingent upon TELESAT receiving from CUSTOMER a payment of Twenty Thousand Three Hundred U.S. dollars (U.S. \$20,300.00). Of which Ten Thousand One Hundred Fifty U.S. Dollars (\$10,150.00) shall serve as a one (1) month security payment and the balance of such amount shall cover the cost of Service for first month of the Term set forth above. Such amount shall be due and payable upon receipt of TELESAT's invoice. The aforementioned security payment is subject to the provisions of Paragraph 3 ("SECURITY PAYMENT") of the General Terms and Conditions. CUSTOMER's failure to remit the aforementioned payment by such date shall be considered a material breach of this Agreement.

4. PAYMENT INSTRUCTIONS

Payment information is detailed in the payment instructions which accompany all TELESAT invoices. To ensure accuracy CUSTOMER should include with all payments its TELESAT account number and the invoice number for which payment is being made.

5. RESERVED

6. NOTICES

All notices, demands, requests, or other communications which may be or are required to be given, served, or sent by one party to the other party pursuant to this Agreement (except as otherwise specifically provided in this Agreement) shall be in writing and shall be delivered by confirmed facsimile, confirmed overnight mail, by hand or mailed by first-class, registered

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Customer Initials: 

TELESAT Initials: 

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or certified mail, return receipt requested, postage prepaid, addressed as follows:

(i) If to CUSTOMER: PlanetSky Ltd.
Gala Court Chambers
P.O. Box 52080
CY-4060 Limassol
Cyprus
Attention: Angelos Pieri
Phone: +357-25817204
Facsimile: +357-25817211

Billing contact: Same as above

(ii) If to TELESAT: Telesat Canada
1601 Telesat Court
Ottawa, Ontario K1B 5P4
Canada
Phone: 613-748-2220 0123
Facsimile: 613-748-8712
Attn: Vice President, Law

Either party may designate by notice in writing a new address or addressee, to which any notice, demand, request, or communication may thereafter be so given, served or sent. Each notice, demand, request, or communication shall be deemed sufficiently given, served or sent for all purposes three (3) days after depositing such notice in the mail, or one (1) day after delivery to a nationally recognized overnight courier for overnight delivery if such notice is properly addressed and the appropriate fee is prepaid, and the same day as hand delivered or faxed with confirmation.

7. ENTIRE AGREEMENT

This Agreement, along with written documents incorporated herein by reference, constitutes the entire agreement between CUSTOMER and TELESAT relative to the Service, and this Agreement can be altered, amended or revoked only by an instrument in writing signed by authorized representatives of both CUSTOMER and TELESAT. CUSTOMER and TELESAT agree hereby that any prior or contemporaneous oral and written agreements between and among themselves and their agents and representatives relative to the subject of this Agreement are superseded and replaced by this Agreement. Any provision of this Agreement found to be unenforceable or invalid by a court of competent jurisdiction shall in no way affect the validity or enforceability of any other provision except that if such invalid or unenforceable provision provided a material benefit to a party hereto, such party shall have the

TELESAT PROPRIETARY

Customer Initials: 

TELESAT Initials: 

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right to terminate the Agreement without liability to the other. Each party represents that it has caused this Agreement to be executed on its behalf by a representative empowered to bind that party with respect to the undertaking or obligations contained herein.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement, T120808883 as of the day and year first above written, and agree to the terms and conditions set forth herein.

PLANETSKY LTD.

By: 

Print: ANGELOS PIERI

Title: M.D

Date: 5/9/2008

TELESAT CANADA

By: 

Print: Colin F. Bell

Title: Deputy General Counsel

Date: 11 September 2008

TELESAT PROPRIETARY

Customer Initials: 

TELESAT Initials: 